

## Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 ISO-00 SS-15 SP-02 L-03 H-01 NSC-05  
SSO-00 NSCE-00 CAB-02 CIAE-00 COME-00 DODE-00 DOTE-00  
INR-07 NSAE-00 FAA-00 PRS-01 INRE-00 USIE-00 /057 W  
-----081941Z 075770 /53

O 081912Z MAR 77

FM AMEMBASSY LONDON

TO SECSTATE WASHDC IMMEDIATE 1396

C O N F I D E N T I A L SECTION 01 OF 03 LONDON 03918

FOR COOPER AND KATZ (STATE), ADAMS, DAVENPORT AND KAMM  
(DOT), HORMATS AND HUNTER (NSC), ROBSON (CAB)  
PASS WHITE HOUSE FOR JOHNSTON AND COMMERCE FOR TOLO.

E.O. 11652 N/A

TAGS: EAIR, UK

SUBJECT: US-UK CIVAIR NEGOTIATIONS: USDEL STATUS REPORT

1. LONDON 3438, LONDON 3529, AND LONDON 3666 HAVE  
REPORTED ON EACH DAY'S NEGOTIATIONS. SESSIONS ON  
MARCH 4 AND 8 LIMITED TO WORKING GROUP MEETINGS; SHORT  
PLENARY HELD MARCH 7 TO REVIEW PROGRESS OF WORKING  
GROUPS. PROGRESS SLIGHT ON ALL SUBSTANTIVE ISSUES.  
STATUS REPORT ON MAJOR ISSUES IN RENEGOTIATION FOLLOWS.

2. GENERAL OVERVIEW. THE MAJOR "STUMPS" IN THE  
NEGOTIATIONS ARE PHILOSOPHY ON CAPACITY, APPROACH TO  
RATE STRUCTURE, AND ROUTES. MOVEMENT IS SLOW ON  
CAPACITY; USDEL HAS SAID THIS "STUMP" MUST BE REMOVED  
BEFORE MOVING TO RATES AND ROUTES. RATES HAVE BEEN  
INTRODUCED, BUT NOT DISCUSSED IN DETAIL; RATE STRUCTURE  
DIFFERENCES ARE LIKELY RESOLVABLE WITHOUT GREAT EFFORT.  
ROUTES, NOT YET DISCUSSED, WILL PROVE A MAJOR OBSTACLE.

A) CAPACITY. AS REPORTED LONDON 3529, SMALL SENIOR LEVEL  
WORKING GROUP, HEADED BY BOYD, SHOVELTON, HAS BEEN  
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DISCUSSING CAPACITY REGIMES WHICH PERMIT CARRIER  
INITIATIVE BUT PRECLUDE PROFLIGATE USE OF RESOURCES.  
PROGRESS IS SLIGHT. UKDEL SEEKS STRICT LIMITS AIMED  
AT HIGH LOAD FACTORS ON CARRIER FLIGHTS, LITTLE RECP-  
TIVITY TO PUBLIC REQUIREMENT FOR ADEQUATE CAPACITY ON  
DEMAND AND PUBLIC BENEFIT OF COMPETITIVE PLANS FOR  
CAPACITY. SERIES OF DISCUSSIONS HAS LED TO SHARP FOCUS

ON TWO MAJOR ISSUES: (I) IN EVENT OF DISAGREEMENT BETWEEN GOVERNMENTS OVER A PROPOSED CAPACITY INCREASE, WHETHER PROPOSED CAPACITY IS OPERATED SUBJECT TO REVIEW (US POSITION) OR EXISTING LEVEL IS OPERATED (UK POSITION), AND (II) WHETHER AIRLINES MAKE JOINT FORECASTS OF TRAFFIC IN EACH MARKET. UK PUSHES FOR JOINT TRAFFIC FORECASTS AND AGREED LOAD FACTOR STANDARDS, TANTAMOUNT TO PREDETERMINATION OF CAPACITY.

B) RATES. USDEL-UKDEL EXCHANGED DRAFTS OF RATE ARTICLE; MANY DIFFERENCES ARE MINOR LANGUAGE VARIATIONS, SOME MAJOR SUBSTANTIVE ONES. NUMBER OF TECHNICAL ISSUES RESOLVED AT WORKING GROUP LEVEL. AMONG MAJOR UNRESOLVED ISSUES ARE UK PROPOSALS (1) TO INCLUDE AGENT COMMISSIONS IN DEFINITION OF RATES (SO THAT WE HAVE TO AGREE INTER-GOVERNMENTALLY ON AGENT COMMISSIONS), (2) TO PROVIDE FOR US-UK RATE DISCUSSIONS IN EVENT OF NO IATA AGREEMENT ON RATES, AND (3) TO REQUIRE 75 DAYS ADVANCE FILING OF RATES (PENDING US LEGISLATION WOULD PROVIDE 45 DAYS NOTICE FOR PASSENGERS, 60 FOR CARGO). MATTERS STILL TO BE DISCUSSED INCLUDE CURRENCY SURCHARGES, EXISTING RATES, AND DISCRIMINATION. UK APPEARS RECEPTIVE TO US IDEA OF ESTABLISHING US-UK RATE POLICY WORKING GROUP; DETAILS REMAIN TO BE DISCUSSED.

C) ROUTES. UKDEL HAS REITERATED POSITION TAKEN IN UK RENEGOTIATION DOCUMENT 12 TABLED IN DECEMBER THAT (1) US AND UK AIRLINE ROUTES SHOULD BE PARALLEL; EACH ROUTE SERVED BY TWO CARRIERS (BETWEEN ONE PAIR OF CITIES), (2) NO BEYOND-LONDON ROUTES FOR U.S. CARRIERS. USDEL HAS REJECTED, AS DID EARLIER U.S. AIDE MEMOIRES, SUCH

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ROUTE STRUCTURE AS TOO INFLEXIBLE, WEIGHTED IN FAVOR UK INTERESTS. USDEL READY TO TABLE A COMPREHENSIVE ROUTE PROPOSAL THAT PROVIDES ROOM FOR NEGOTIATED MOVEMENT FROM "ALL EXISTING AUTHORITY PLUS ALL AUTHORITY AT ISSUE IN THE TRANSATLANTIC ROUTE PROCEEDING". AS DISCUSSED ABOVE, USDEL FIRMLY OF VIEW THAT CAPACITY "STUMP" SHOULD BE CLEARED BEFORE TACKLING ROUTES; WILL WITHHOLD ROUTE PAPER PENDING PROGRESS ON CAPACITY.

D) DESIGNATION. UKDEL HAS REITERATED VIEW THAT ONE CARRIER OF EACH SIDE SHOULD OPERATE EACH ROUTE. USDEL HAS TABLED PAPER ARGUING FOR DESIGNATION OF MORE THAN ONE CARRIER OF A SIDE IN MARKET THAT CAN SUPPORT SUCH COMPETITION, AND SUGGESTING ONLY ONE CARRIER EACH SIDE IN SMALLER MARKETS. THIS POSITION IS SUBSTANTIAL MOVEMENT TOWARD UK, SHOULD RELIEVE SOME EXCESS CAPACITY FEARS OF UKDEL. LITTLE DISCUSSION YET ON DESIGNATION.

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UKDEL HAS NOT MENTIONED LAKER, WHICH IS SECOND LONDON-  
NEW YORK UK CARRIER.

### 3. ASSESSMENT OF UK POSITION

A) UK SEEKS GOVERNMENTALLY CONTROLLED ENVIRONMENT FOR  
ROUTES, CAPACITY, AND TARIFFS. UK OBJECTIVE IS AGREED,  
REGULATED MARKET SPLIT BETWEEN UK AND US ON TRANS-  
ATLANTIC ROUTES. "MIRROR" RECIPROCITY ON ROUTES WILL  
ELIMINATE RIGHTS OF US CARRIERS TO CARRY TRAFFIC BEYOND  
UK POINTS. UK WILL ULTIMATELY AGREE TO CERTAIN BEYOND  
RIGHTS ENABLING PANAM TO OPERATE SOME VERSION OF ROUND  
THE WORLD SERVICE. UK (AND BRITISH AIRWAYS (BA))  
PARTICULARLY UPSET ABOUT TRAFFIC ROUTING BY PANAM  
BEYOND LONDON TO FRANKFURT.

B) UK IS BELIEVED TO HAVE MADE CONTINGENT ARRANGEMENTS  
WITH CANADA TO ROUTE LONDON-US TRAFFIC TO, FROM  
MONTREAL. BA BELIEVES IT WILL RETAIN 70 PERCENT OF ITS  
US TRAFFIC IN THIS FASHION IN EVENT OF SERVICE CESSATION  
RESULTING FROM FAILURE TO CONCLUDE NEW AIR BILATERAL  
AGREEMENT BY JUNE 22, 1977.

C) UK SPEAKS OF NEED FOR BUT DOES NOT ANTICIPATE  
REACHING AGREEMENT BY JUNE 22. UK ASSUMES CONTINUATION  
OF NEGOTIATIONS INTO JUNE WILL MAKE EXTREMELY DIFFICULT  
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A US DECISION TO HALT DIRECT US-LONDON SERVICE. UK BELIEVES IT WILL BE ABLE TO REQUIRE SUBSTANTIALLY COMPLETE RECIPROCITY OF SERVICE AFTER JUNE 22 IF NO AGREEMENT, I.E., UK CAN ACHIEVE ITS NEGOTIATING OBJECTIVES UNILATERALLY BY STALLING TALKS, RESTRICTING US OPERATIONS. THIS WILL RESULT IN EFFECTIVE GOVERNMENT DETERMINATION OF MARKET SPLIT. THEREAFTER, UK BELIEVES THERE WILL BE NO PRESSURE ON UK TO CONCLUDE AN AIR SERVICES AGREEMENT EXCEPT ON ITS OWN TERMS.

4. DISCUSSION OF US POSITION. USDEL BELIEVES BERMUDA PRINCIPLES (I.E., RELIANCE ON INDEPENDENT CAPACITY DECISIONS BY CARRIERS) HAVE GENERALLY WORKED WELL. US WILL NOT CONSIDER PROSPECT OF MARKET SPLITTING EITHER BY AIRLINE OR GOVERNMENT AGREEMENTS; WILL NOT NEGOTIATE ANY CONCEPT OF A PRIORI CAPACITY LEVELS; AND WILL NOT FOREGO PRINCIPLE OF POSSIBLE MULTIPLE DESIGNATION OF US FLAG CARRIERS. NOR WILL US CONSIDER ELIMINATION OF BEYOND RIGHTS FROM ROUTES AGREED FOR US FLAG CARRIERS. USDEL HAS TAKEN POSITION US SHOULD NOT "PAY" A NEGOTIATING PRICE FOR UK TO ABANDON ITS CAPACITY DETERMINATION AND RESTRICTIVE ROUTE DEMANDS.

B) U.S. STRATEGY: (1) SEEK AGREEMENT ON RATE ARTICLE. THE BERMUDA RATE ARTICLE CAN BE MUCH IMPROVED; US AND UK IN GENERAL AGREEMENT ON OBJECTIVES AND PROCEDURES. (2) SEEK TO ACCOMMODATE UK DESIRE FOR AGREED CAPACITY BY PROPOSING EACH GOVERNMENT PRESERVE PROJECTED CAPACITY INCREASES OF ITS OWN CARRIERS (ABOVE A THRESHOLD) WITH PENALTIES TO BE INCURRED BY CARRIER IF INCREASED CAPACITY PROVES SUBSTANTIALLY TOO LARGE IN LIGHT OF ACTUAL DEMAND.

(3) ADHERE TO PRINCIPLE OF MULTIPLE DESIGNATION WHILE AGREEING TO SHARP RESTRICTIONS IN ITS APPLICATION. TO PROVIDE THAT IN SOME NEW CITY PAIR MARKETS THERE WILL BE ONLY ONE CARRIER OF EACH COUNTRY DURING THE GROWTH PERIOD, WITH PROVISION FOR TRIGGERING COMPETITIVE

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SERVICES.

(4) ON ROUTES US WILL SEEK ESSENTIALLY ALL EXISTING BEYOND POINTS PLUS ADDITIONAL US GATEWAYS TO ACCOMMODATE POSSIBLE FUTURE DECISION OF TRANSATLANTIC ROUTE

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PROCEEDING. IN RETURN WILL OFFER ADDITIONAL US POINTS  
TO UK, THOUGH FEWER IN NUMBER THAN THOSE AUTHORIZED  
U.S. CARRIERS.

C) U.S. TACTICS: IT APPEARS THAT IN EVENT NO AGREEMENT  
BY JUNE 22 UK CAN AND WILL TAKE UNILATERAL ACTION TO  
PLACE U.S. CARRIER OPERATIONS TO, FROM UK ON RECIPROCAL  
BASIS WITH BRITISH CARRIERS. THIS WILL INCLUDE  
ELIMINATION OF MAJOR BEYOND U.K. RIGHTS FOR U.S.  
CARRIERS. RETALIATION ONLY PLAYS UK GAME OF BRINGING

PRACTICAL PURPOSES IS THEREFORE LIMITED TO (A) TOTAL  
CESSATION OF DIRECT SERVICES BY AIRLINES OF BOTH  
NATIONS, OR POSSIBLY (B) EXTRA-LEGAL HARASSMENT.  
D) THEREFORE, USDEL IS SEEKING THROUGH REJECTION OF UK  
POSITIONS ON MARKET SHARE AND CAPACITY CONTROLS TO  
ASCERTAIN WHETHER U.K. HAS ANY INTEREST IN SEEKING  
AGREEMENT ON OTHER THAN ITS OWN TERMS. TO THIS END  
UKDEL HAS BEEN ADVISED US WILL NOT PROCEED UNTIL A  
SATISFACTORY CAPACITY ARTICLE HAS BEEN WORKED OUT.  
E) SIMULTANEOUSLY POINT IS MADE THAT US HAS WORLDWIDE  
NETWORK OF CIVIL AIR AGREEMENTS AND SERVICES THAT WOULD  
BE IN MORTAL JEOPARDY WERE US TO ENTERTAIN SERIOUSLY  
MAJOR DEMANDS PUT FORTH BY UK.  
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5. ASSESSMENT. SO FAR (MARCH 8) IT IMPOSSIBLE TO  
ASSESS WHETHER UK WILLING TO MOVE OFF ITS MAJOR DEMANDS.  
US TEAM RECEIVES SYMPATHETIC COMMENTS FROM MEMBERS OF  
UKDEL UNOFFICIALLY BUT NOTHING HAS TRANSPIRED

OFFICIALLY INDICATING ANY CHANGE OF UK VIEWS.

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## Message Attributes

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**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
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**Disposition Approved on Date:**  
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**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 22 May 2009  
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